IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

CIVIL MISC. (TRANSFER)APPLICATION NO.27 OF 2004

Vivek Sharma, aged about 35 years,
S/o Late Sri R.C. Sharma, R/o House No.C-39,
'H' Road, Mahanagar Extension, Lucknow

..... Applicant

Versus

1. Smita Sharma, aged about 30 years,
   W/o Sri Vivek Sharma, D/o Mahendra SIngh Sharma
   Presently residing at 402 Ram Nagar, Ashok Marg,
   Roorkee, Uttaranchal
2. Judge, Family Court, Roorkee

..... Respondents

Shri Ms. Tehmina Punvani assisted by Ms. Menka Tripathi, ld. counsel for the applicant.
Shri Sharad Sharma, learned counsel for the respondent No. 1.

Dated: 18.10.2005

Hon'ble P.C. Verma, J.

By means of this application, it has been prayed that the Case No.15 of 2004, Smita Sharma Vs. Vivek Sharma pending before the Judge Family Court, Roorkee may be transferred to any other court.

Brief facts of the case according to the applicant are that Respondent No.1 voluntarily left her husband's home on 18.03.2002 and since, she is residing with her father. Thereafter, she filed a case bearing no.15 of 2004 under section 125 of Criminal Procedure Code (Cr.P.C.) before the learned Family Judge, Roorkee. The applicant filed his objection against the said application wherein the applicant denied all the objections levelled against him and stated that Respondent No.1 is a qualified lady and is earning a sum of Rs.5,000/- p.m. and therefore is in a position to maintain himself. It has also been alleged in para-11 of the affidavit filed in support of the present application that the Respondent No.1 is a close relative of one of the Addl. District Judges, who happens to be her real uncle and the applicant

apprehends that he will not get justice from the Family Court as the Judge as been influenced by said ADJ. It has also been alleged that Respondent No.2 herself had applied for the transfer of the aforesaid matter from Roorkee to Hardwar before the District Judge, wherein it was directed that the records be sent to Hardwar but thereafter Respondent No.2 herself proceeded with the matter.

I have heard learned counsel for the parties and perused that affidavit filed in support of application.

Keeping in view the facts and circumstances of the case and in exercise of powers conferred under Article 227 of Constitution of India, it would be appropriate that the present application for transfer of the case be allowed and the case may be transferred to the court of Judge Family Court, Dehradun from the court of Judge, Family Court, Roorkee.

Hence, the application is allowed. The case is accordingly transferred to the court of Judge, Family Court, Dehradun from the court of Judge Family Court, Roorkee.

The application for transfer of case is disposed of accordingly.

(P.C. Verma, J.)

Rajeev Dang